

## **REMARKS**

### **STATUS OF THE CLAIMS**

Applicants amended claims 1, 2, 38, 43, 50, 51 and 71 to render them idiomatically and grammatically correct and to point out particular aspects of the invention, but otherwise has maintained all other claims in their present form. Applicants added claims 72-74 to further point out particular aspects of the invention. Accordingly, claims 1-8, 24-26, 38-59, and 71-74 are now pending examination. Applicants believe that no new matter has been introduced by these claim amendments.

### **EXAMINER'S RESPONSE TO APPLICANT'S PRIOR SUBMISSION**

In Section 1 (p. 2) of the aforementioned Final Office Action, the Examiner indicates that "The amendment filed on August 23, 2004,... is sufficient to overcome the Copple et al (6,178,408), Eggleston et al (6061,660), and Kamille (5,996,997)." Additionally, at Section 8 (p. 13) the Examiner indicates that the Applicant's arguments ... are moot in view of the new ground(s) of rejection." At the same time, contrary to these statements, the Examiner indicates that "Applicant's argument in reference to the accessibility of the web server from either the auction web server or the store web server [are] non-persuasive."

Then, in rejecting the claims, the Examiner relied on U.S. Patent 6,178,408 to Copple et al ("Copple") in various combinations with U.S. Patent 6,061,660 to Eggleston et al ("Eggleston"), U.S. Patent 5,996,997 to Kamille, U.S. Patent 5,835,896 to Fisher et al, U.S. Patent 5,905,975 to Ausuble, E. C. Baig's Article "GOING ONCE, GOING TWICE, CYBERSOLD!," N. Taosaitis' article "ONLINE AUCTIONS: BID ADIEU TO HIGH PRICES" (the "Articles") and alleged knowledge in the art (as to use of which Applicants reserved the right to present further arguments in opposition). These combinations of art present new grounds of rejection.

Based on the foregoing, Applicants presume that the apparent inconsistency outlined above was inadvertent. That is, Applicants take the Examiner's comments in combination with the Examiner's reliance on new grounds of rejection to mean that the Examiner considered Applicants' argument effective but moot in light of the new grounds of rejection.

## CLAIM REJECTIONS UNDER 35 USC §103

In view of the aforementioned claim rejections under 35 USC §103, Applicants respectfully submit that the pending claims as now presented are patentable over the cited references. Firstly, not one of the cited references teaches or suggests the claimed invention as recited in the pending claims, and none of proposed combinations of such references as outlined in the Final Office Action produces the claimed invention as recited in the pending claims. Secondly, the proposed combinations of the cited references are believed to be improper. Kamille U.S. Class 273/139; Eggleston and Copple U.S. Class 705/14. On one hand, Kamille is directed to a probability game system for redeeming a validated game piece on which there is winning a value indication (see, e.g. Figures 1-4C, abstract, and col. 12, lines 15-41). Once Kamille's winning value is exposed on the game piece and the winning value is redeemed, assuming the game piece has been validated, the game piece is no longer valuable and points are not accumulated. On the other hand, Eggleston is directed to implementing (creating and instantiating) incentive programs purchased by sponsors, instantiating consumer and sponsor web sites and accessing these website to interact with same for registration and obtaining awards. And Copple is directed at redeeming collectible points using on-line bidding for promotional items (See. e.g., Copple Abstract). Again, even if such combinations were possible, considering also Fisher, Ausubel and the Articles, in any form the combined references do not produce the claimed invention as shown in more detail below.

A. Claims 1-8, 25, 26, 50 and 52-59 are allowable over Copple and Kamille in combination with Fisher, Ausubel and Articles.

In relying on Copple in view of Kamille, Fisher, Ausubel and Articles, the Examiner rejected claims 1-8, 25, 26, 50 and 52-59 as being unpatentable over these references. However, because Applicants believe that the combination of Copple and Kamille does not produce the claimed invention as recited in the above-enumerated claims it does not support these claim rejections.

As to independent claim 1, for example, Copple, singly or in combination with Kamille, does not teach or suggest "an agent configured to participate as a proxy for the user in the auction while participating as a proxy for the user in any number of other auctions" (i.e., substantially concurrently in a number of auctions). The Articles do not make up for

Copple and Kamille's deficiency because they disclose one agent or proxy setting a bid price in one particular auction (See, e.g., N. Tamosaitis at 2<sup>nd</sup> and 4<sup>th</sup> paragraphs on page 1 and E. C Baig's at 5<sup>th</sup> and 6<sup>th</sup> paragraphs on page 2). In the absence of such teaching the references do not meet each and every element of the claimed invention as recited in claim 1.

Additionally as to claim 1, Applicants do not find in the cited references any teaching or suggestion for "a database server with an account database having an account to hold the accumulated points for the user, wherein accounts are set up for transferring accumulated points therebetween." Likewise, Applicants do not find any teaching or suggestion in the cited references for "accounts for users that are heavily active are each associated with a credit line and credit-enabled marker such that if the user is deemed heavily active the credit line associated with the user's account is set up with points for supplementing the accumulated points when the agent participates for the user in an auction."

The examiner also suggests (at p.4) that Kamille teaches verifying the validity of a code submitted online to a server (col. 3, lines 18-35 and col. 12, lines 31-14). However, beyond that, neither Copple nor Kamille teach or suggest "points earned by or credited to the user are accumulated, the accumulated points being redeemable for value ... in an auction."

By analogy, independent claim 50 recites a method with the step of "instantiating an agent to participate as a proxy for the user in the auction substantially concurrently with any number of other auctions." As with claim 1 above, the cited references do not teach or suggest this feature singly or on combination. Further by analogy, independent claim 50 recites accumulating the points earned by or credited to the user in an account, the points being redeemable for value ... in an auction." This feature is also missing from the cited references. Claim 50 further recites "reserving points from a credit line associated with the account if the account is associated with a credit-enabled marker, the reserved points supplementing the points in the account when the agent participates in the auction." Again, neither one of the references appears to teach or suggest this feature. Lastly, claim 50 recites that the "accounts are set up for transferring points between them." This features, which is also missing from the cited references, allows users to barter points, pool points and the like, as described in Applicants' original disclosure, e.g., at page 79.

The forgoing applies to the claims depending from Claims 1 and 50 (2-8, 24-26, and 51-59), although these dependent claims recite elements that are themselves distinguished from the cited references. For example, claim 4 recites earning points through auctioning items which the references do not appear to teach or suggest. Likewise, the references do not teach or suggest the code C in its various forms as recited in claims 5-8. In other words, the combination of Copple, Kamille, Fisher, Ausubel and Article proposed by the Examiner in rejecting claims 1-8, 25, 26, 50 and 52-59, does not produce the claimed invention as now recited in the above-enumerated claims. Accordingly, Applicants believe that these claims are allowable over such references.

B. Claims 24 and 51 are allowable over Kamille, Copple, and Eggleston.

In addition to the reasons outlined above, claims 24 and 51 recite that the points are held in the accounts in encrypted form. The Examiner indicates the Eggleston teaches a firewall and the use of passwords. However, even though the Examiner suggest that encryption is well known, it has not been mentioned in any of the cited references with reference to online auctions as recited in the enumerated claims. Accordingly, Applicants believe that these claims are allowable over such references.

C. Claims 38-41, 43, 44 and 46-48 are allowable over Copple in combination with Fisher, Ausubel and Articles.

Claim 38 is directed to a system which, with some variations, also includes the agent and accounts as recited in claim 1. The examiner agrees that claim 38 was not anticipated by Copple (see Examiner's comment in Section 1 that the amendment filed on 8/23/04 is sufficient to overcome Copple, Eggleston and Kamille). As explained above with reference to claim 1, the addition of Fisher, Ausubel and the Articles does nothing to render claim 38 obvious in view of these references. In other words, the features recited in claim 38, including the agent and accounts, are neither taught nor suggested by the references (whether Kamille and Eggleston are relied on, or not).

This argument applies by analogy to claim 43 which also recited the agent and accounts. Namely, claim 43 recites, for example, "an agent configured to participate as a proxy for a user in one or more substantially concurrent auctions;...wherein a user account for a credit worthy user is associated with a credit-enabled marker and a credit line set up

with points for supplementing the points in the user account when participating in an auction.” Hence, the cited references do not produce claim 43 either.

D. Claims 42, 45, 49 and 71 are allowable over Copple, Egglston, Fisher, Ausubel, and the Articles.

Claims 42, 45 and 49 respectively depend from and are allowable for the same reasons as claims 38 and 43. Also, as indicated with references to claims 24 and 51, claims 42 and 49 recite holding the points in encrypted form which is not taught by the references (including Eggleston).

Claim 71 also recite an agent and accounts with attributes similar in many respects to those in the preceding claims (, 38, 43, and 50). Among others, claim 71 recites “clients, one or more of which having an agent with each agent being configured to participate as a respective proxy for their user substantially concurrently in a number of auctions;... wherein accounts for users that are heavily active are each associated with a credit-enabled marker and a credit line set up with points for supplementing the accumulated points when participating in an auction.” Once again, the addition of Fisher, Ausubel and the Articles does nothing to render claim 71 obvious, and the combination of the cited references does not produce all the elements of claim 71.

E. The new claims, 72-74, are allowable over the references.

Claims 72-74 point out and distinctly claim various aspect of the invention, including, among other things, the agent, the accounts in which points are accumulated and the association of the accounts to a credit-line and a credit-line marker. Applicants believe that the arguments above apply by analogy to the new claims and that claims 72-74 are likewise allowable over the cited references.

CONCLUSION

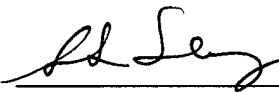
For the reasons as outlined above, claims 1-8, 24-26, 38-59, and 71-74 are patentably distinguished from and are therefore allowable over the cited references and the alleged knowledge in the art. Accordingly, applicants respectfully request reconsideration and withdrawal of the claim rejections upon continued examination of this application. As the

application is believed to be ready for allowance, a Notice of Allowance of these claims is hereby respectfully requested.

Authorization is hereby given to charge any fee deficiency or credit any overpayment to Deposit Account 50-2778. Should any matter remain unresolved or if any question remains unanswered the Examiner is kindly invited to contact the undersigned Applicant's attorney at (650) 813-4873.

Date: January 5, 2005

Respectfully submitted



Leah Sherry

Reg. No. 43,918

DECHERT LLP  
Customer No. 37509  
Telephone: 650.813.4800  
Facsimile: 650.813.4848

**CERTIFICATE OF MAILING (37 CFR 1.8(a))**

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited on January 5, 2005, with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450.

Date: January 5, 2005



Yvette Yturbe-Owen